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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/711,912

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Mark Viklund

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EXAMINER

OLSON, MARGARET LINNEA

ART UNIT

PAPER NUMBER

3782

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/711,912	<b>Applicant(s)</b> VIKLUND ET AL.	
	<b>Examiner</b> MARGARET L. OLSON	<b>Art Unit</b> 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 9-13, 17, 18 and 20-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-13, 17, 18 and 20-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 March 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/18/08</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 9-13, 17, 18, and 20-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirtsiefer (US 5,546,705) in view of Parker et al. (US 3,640,423) in view of Jones (US 2,656,653).

With respect to claim 13, Hirtsiefer discloses a vehicular mountable cargo container with a top portion 2 hinge-connected for pivotation between open and closed positions relative to a bottom portion 1. In the spring-based strut 5, two arms 9 and 10 are operatively connected for pivotation relative to one another (figure 5). A biased spring 16 is operatively interposed between the two arms. The two arms are connectable to the top and bottom portions of the cargo carrier at 6 and 7, and the strut delivers an assisting expansion force to urge the cargo container open (column 3, lines 19-22). Hirtsiefer discloses that a cam surface at arm 10 near pivot bearing 13 and at the surface adjacent to arm 9 establishes a surficial interaction with arm 9. A force communication point at the tip of arm 10 closest to pivot 13 moves across the cam surface on arm 10 (figure 4, figure 5). Hirtsiefer does not explicitly disclose that a pair of the struts supports the top portion of the container. Parker et al. teach a vehicular

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mounted cargo container with a pair of spring based struts 90 and 91 (figure 4, figure 6) mounted on opposite end regions of the cargo container (figure 4, figure 6; column 2, lines 54-61). It would have been obvious to one of ordinary skill in the art at the time of invention to use a pair of side strut supports to hold up the cargo lid container of Hirtsiefer to stably support the container top and prevent unwanted rotational movements of the top portion. Hirtsiefer as modified does not disclose that the spring biased-struts exclusively deliver an assisting expansion force by having the force communication point remain on one side of a line oriented parallel to a direction of the operationally effective force of the biasing spring and intersecting the pivot connection 13 between the two arms. Jones discloses a cam surface 17 on a strut establishing a surficial interaction between two arms 15 and 19. A force communication point 22a defined by a point of support on a non-cam surface 17 including arm 15 at said cam surface and which moves across the came surface as the two arms pivot relative to one another between first and second strut orientations (figure 1). During this pivoting, Jones discloses that the force communication point may remain exclusively on one side of a line 32 oriented parallel to a direction of an operationally effective force imposed by said biasing spring between said two arms and intersecting a pivot connection 20 between said two arms (column 4, lines 28-59). While Jones discloses that the force communication point might in some cases be moved across the line 32, he also discloses that the force communication point may be prevented from moving across the line and counter-balancing the cam surface (column 4, lines 48-53). It would have been obvious to one of ordinary skill in the art at the time of invention to limit the force

communication point from passing the line oriented parallel to a direction of an operationally effective force imposed by said biasing spring between said two arms and intersecting a pivot connection between said two arms of Hirtsiefer, in order to ensure that the strut of Hirtsiefer was never counterbalanced, and could always easily provide an opening force to the cargo container it is mounted upon.

With respect to claim 9, Hirtsiefer as modified discloses that the spring based strut is configured to avoid urging the container to a closed position (Hirtseifer column 4, lines 17-20; Jones column 4, lines 48-53).

With respect to claim 10, Hirtsiefer as modified discloses that the spring based strut is configured with the biasing spring so that across a substantial entirety of the range of motion the assisting force urges the cargo container to an open position (column 4, lines 17-20), preventing a closed position.

With respect to claim 11, Hirtsiefer as modified discloses that the spring based struts would work together to maintain a parallel top portion of the container during opening and closing.

With respect to claim 12, Hirtsiefer as modified discloses that the spring based struts of claim as taught by claim 8 would work together to prevent a rotational movement of the top portion of the container during opening and closing.

With respect to claim 17, use of the structure of Hirtsiefer as modified in claim 23 discloses this method.

With respect to claim 18, use of the structure of Hirtsiefer as modified in claim 23 discloses this method.

With respect to claim 20, use of the structure of Hirtsiefer as modified in claim 23 discloses this method, but does not disclose delimiters to limit the range of motion between the two arms. Jones teaches delimiters 22 and 22a, flat surfaces on the cam surface, that limit the range of motion relative to the two arms of the strut. It would have been obvious to place delimiters on the strut of Hirtsiefer, in order to control the direction of the spring force provided by the struts.

With respect to claim 21, use of the structure of Hirtsiefer as modified in claim 13 discloses this method, but does not disclose delimiters to limit the range of motion between the two arms. Jones teaches delimiters 22 and 22a, flat surfaces on the cam surface, that limit the range of motion relative to the two arms of the strut. It would have been obvious to place delimiters on the strut of Hirtsiefer, in order to control the direction of the spring force provided by the struts.

With respect to claim 22, use of the structure of Hirtsiefer as modified in claim 21 discloses this method.

With respect to claim 23, use of the structure of Hirtsiefer as modified in claim 13 discloses this method.

With respect to claim 24, Hirtsiefer as modified teaches a slider 20 presenting a reception surface near 22 for establishing a sliding point of contact with the cam surface near 13 by connection to an extension of it. Use of the structure of Hirtsiefer as modified discloses this method.

With respect to claim 25, use of the structure of Hirtsiefer as modified in claim 24 discloses this method.

With respect to claim 26, use of the structure of Hirtsiefer as modified in claim 23 discloses this method.

With respect to claim 27, use of the structure of Hirtsiefer as modified in claim 23 discloses this method.

With respect to claim 28, use of the structure of Hirtsiefer as modified in claim 23 discloses this method.

With respect to claim 29, use of the structure of Hirtsiefer as modified in claim 23 discloses this method.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARGARET L. OLSON whose telephone number is (571)272-9002. The examiner can normally be reached on MTWR, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mlo

/Nathan J. Newhouse/



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Supervisory Patent Examiner, Art Unit 3782